

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 277 (Sub-No. 1X)

WEST VIRGINIA NORTHERN RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN PRESTON COUNTY, W. VA.

Decided: May 13, 2015

West Virginia Northern Railway Company (WVN) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 10.13 miles of railroad between milepost 0.0 in Tunnelton, and the end of the line at milepost 10.13 near Kingwood, in Preston County, W. Va. Notice of the exemption was served and published in the Federal Register on December 21, 2000 (65 Fed. Reg. 80483-84). On February 20, 2001, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding, authorizing a 180-day period, until August 19, 2001, for Kern Valley Railroad Company (KVR) to negotiate an interim trail use/rail banking agreement with WVN for the line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d). WVN and KVR subsequently reached a trail use/rail banking agreement.

By joint request filed on March 11, 2015,¹ KVR and Preston County Parks and Recreation Commission (PCPARC) (collectively, petitioners) request that the Board, pursuant to 49 C.F.R. § 1152.29(f), reopen the proceeding, vacate the existing NITU, and issue a replacement NITU substituting PCPARC as the new interim trail sponsor in place of KVR.

Petitioners have submitted a copy of the extant NITU and a statement by PCPARC of its willingness to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way, as required by 49 C.F.R. § 1152.29. Petitioners also acknowledge that the use of the right-of-way for trail purposes is subject to the user's continuing to meet the responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. Petitioners indicated that the date of transfer of responsibility for the right-of-way was scheduled to occur on April 1, 2015.

Petitioners' submission meets the requirements of 49 C.F.R. § 1152.29(f). Accordingly, petitioners' request will be granted and a replacement NITU will be issued.

¹ Filings related to this request had previously been received on October 28, 2014, December 18, 2014, and February 9, 2015.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proceeding is reopened.
2. The NITU served on February 20, 2001, is vacated.
3. A replacement NITU applicable to PCPARC as interim trail sponsor is issued, effective on the service date of this decision and notice.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the new sponsor's continuing to meet the financial obligations for the right-of-way.
5. If the trail sponsor intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.
6. This decision and notice is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.